

D.T.E. 01-59

Investigation by the Department of Telecommunications and Energy on its own motion as to the propriety of a proposed increase in the rates and charges set forth in the following tariff: M.D.T.E. No. 10 and M.D.T.E. No. 11, filed by Housatonic Water Works Company on July 17, 2001 and suspended for further investigation.

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APPEARANCES:

James J. Mercer, Treasurer  
Housatonic Water Works Company  
80 Maple Avenue  
Great Barrington, MA 01230  
Petitioner

Kevin F. Penders, Esq.  
Department of Telecommunications and Energy  
One South Station  
Boston, MA 02110  
FOR: SETTLEMENT INTERVENTION STAFF  
Intervenor

Burke LaClair, Town Manager  
Town of Great Barrington  
334 Main Street  
Great Barrington, MA 02130  
Intervenor

James Stark  
1099 Main Street  
P.O. Box 642  
Housatonic, MA 01236  
Limited Participant

Mark Hungate  
19 High Street  
West Stockbridge, MA 01266  
Limited Participant



## I. INTRODUCTION

On July 17, 2001, pursuant to G.L. c. 164, § 94 and G.L. c. 165, § 2, Housatonic Water Works Company (“Housatonic” or “Company”) filed a petition with the Department of Telecommunications and Energy (“Department”) for new rates and tariffs designed to collect additional revenues in the amount of \$89,399.<sup>1</sup> The Company’s proposal represented a 20.02 percent increase over the rates currently in effect. By Order dated July 20, 2001, the Department suspended the effective date of the proposed tariffs until February 1, 2002. By a separate Order dated January 29, 2002, the Department extended the suspension of the proposed tariffs until April 1, 2002. The Department appointed Settlement Intervention Staff (“SIS”) to act as full intervenor in the proceeding in order to promote negotiations and effect a settlement, if feasible.<sup>2</sup> The Department conducted a public hearing in the Village of Housatonic on September 5, 2001 to afford interested persons an opportunity to be heard. Several members of the public attended the public hearing. On that date, representatives of the Company, SIS and the Department also conducted a site visit of the Company’s facilities. On October 1, 2001, the Department granted the Town of Great Barrington’s (“Town”) Petition to

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<sup>1</sup> The Department last granted Housatonic a rate increase in 1995. Housatonic Water Works Company, D.P.U. 95-284-B (1995).

<sup>2</sup> The Department established the SIS process by memorandum dated June 4, 1990, in order to promote negotiated settlements and to formalize institutional representation of ratepayers in water company proceedings.



Intervene.<sup>3</sup> Several rounds of discovery were issued. On February 8, 2002, SIS, on behalf of the Company and the Town (collectively, the “Parties”), submitted a Joint Motion for Approval of Offer of Settlement (“Settlement”) with an expiration date of March 31, 2002.

## II. PROPOSED SETTLEMENT

By its terms, the Settlement filed by the Parties with the Department on February 8, 2002 is intended to resolve all issues in D.T.E. 01-59 and is expressly conditioned upon the Department’s acceptance of all provisions therein, without change or condition, by March 31, 2002 (Settlement at 4). The key provisions of the proposed Settlement are as follows.

First, Article 2.1 of the Settlement specifies that the additional revenues shall be \$65,390, representing an increase of 14.5 percent over rates in effect on May 15, 1995 (id. at 2). The overall rate of return on rate base shall be 9.84 percent, based on a return on common equity of 11.5 percent and a capital structure consisting of 79.41 percent long-term debt and 20.59 percent common equity (id.).

Second, Article 2.4 of the Settlement sets forth the responsibility for hydrant maintenance, in particular snow removal (id. at 3). Specifically, the Settlement provides that snow removal and other access issues are the responsibility of the local municipality and maintaining the physical condition of the hydrants is the responsibility of the Company (id.).

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<sup>3</sup> Ratepayers James Stark and R.M. Hungate filed Petitions to Intervene which were both denied. The Department granted Mr. Stark and Mr. Hungate limited participant status. Mr. Stark filed comments concerning the proposed settlement on March 1, 2002.



### III. STANDARD OF REVIEW

The Department instituted the settlement intervention process to reduce administrative costs incurred by small water companies and their ratepayers in adjudicating rate cases. East Northfield Water Company, D.T.E. 98-127, at 3 (1999). In assessing the reasonableness of the settlement, the Department must review the entire record presented in the Company's filing and other record evidence to ensure that the settlement is consistent with Department precedent and the public interest. See Western Massachusetts Electric Company, D.P.U. 92-13, at 7 (1992); Barnstable Water Company, D.P.U. 91-189, at 4 (1992); Cambridge Electric Light Company, D.P.U. 89-109, at 5 (1989); Eastern Edison Company, D.P.U. 88-100, at 9 (1989).

### IV. ANALYSIS AND FINDINGS

The Department has carefully reviewed the written comments received from interested persons and the oral comments presented at the public hearing. The Department finds that the Settlement includes a rate structure that balances the competing goals of allocating costs while maintaining rate continuity. Milford Water Company, D.T.E. 98-112, at 4 (1999); Boston Gas Company, D.P.U. 96-50-A at 4 (1996); Whitinsville Water Company, D.P.U. 96-111, at 6 (1997). The Department finds that the Settlement submitted by the Parties results in just and reasonable rates and is consistent with Department precedent and the public interest.<sup>4</sup>

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<sup>4</sup> The Department grants the Parties' request to move into the record the Company's initial filing and responses to all information requests provided during this proceeding. In addition, the Department takes administrative notice of the Company's Annual Water Return to the Department for the year 2000. 220 C.M.R. § 1.10(3).



Therefore, the Department approves the Settlement; however, the Department's acceptance of this Settlement does not constitute a determination as to the merits of any allegations, contentions, or arguments made in this proceeding. Moreover, the Department's acceptance of this Settlement does not set a precedent for future filings whether ultimately settled or adjudicated.

V. ORDER

After due notice, hearing, and consideration, it is

ORDERED: That the Joint Motion for Approval of Offer of Settlement, as filed by Housatonic Water Works Company, the Town of Great Barrington and Settlement Intervention Staff, is hereby GRANTED; and it is

FURTHER ORDERED: That Housatonic Water Works Company's tariffs as set forth in the July 17, 2001 filing are rejected; and it is

FURTHER ORDERED: That Housatonic Water Works Company's existing tariff, M.D.P.U. No. 9, be replaced by M.D.T.E. No. 11, to become effective April 1, 2002; and it is



FURTHER ORDERED: That Housatonic Water Works Company's rules and regulations, M.D.T.E. No. 10, shall become effective April 1, 2002.

By Order of the Department,

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James Connelly, Chairman

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W. Robert Keating, Commissioner

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Paul B. Vasington, Commissioner

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Eugene J. Sullivan, Jr. Commissioner

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Deirdre K. Manning, Commissioner



Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).